

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby amends Chapter 23, “Employer’s Contribution and Charges,” and Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

These amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2017, as **ARC 3280C**. The Notice was on the Administrative Rules Review Committee (ARRC) agenda on September 12, 2017. Comment was received from labor and business representatives at the ARRC meeting. Labor representatives were generally opposed to the Department’s internal policy change and voiced opposition to that policy in connection with this rule making. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on October 11, 2017, as **ARC 3380C** to set a public hearing. Another Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on October 25, 2017, as **ARC 3432C**, which rescheduled the public hearing. Public comment was received in writing before the public hearing, and oral comment was received at the public hearing on November 21, 2017. Representatives from labor unions and trade organizations offered comment in opposition to rule 871—24.39(96) in Item 12 of the Notice of Intended Action. The Department determined that most of the comments in opposition to this rule were in fact in opposition to the internal policy for applying the rule and that no change from the Noticed rule was appropriate at this time. These amendments are identical to those published under Notice.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

These amendments will become effective February 7, 2018.

The following amendments are adopted.

ITEM 1. Amend rule 871—23.69(96), catchwords, as follows:

871—23.69(96) Injunction for nonpayment or failure to ~~report~~ provide required information.

ITEM 2. Amend subrule 23.69(1) as follows:

23.69(1) In addition or as an alternative to any other remedy provided in Iowa Code chapter 96 and this rule, the department may proceed to enjoin an employer who has refused or failed to pay any contributions, interest, or penalty or who has failed to file ~~any reports~~ or provide any information required by the department.

ITEM 3. Amend paragraph **23.69(3)“b”** as follows:

b. The period(s) for which there are delinquent contributions, interest, and penalty due or for which ~~returns have not been filed~~ required information has not been provided.

ITEM 4. Amend subrule 23.69(6) as follows:

23.69(6) Upon payment in full of the delinquent contributions, interest, and penalty, and the filing of all delinquent ~~reports~~ wage detail, the department shall have the injunction dissolved.

ITEM 5. Amend subrule 23.70(1) as follows:

23.70(1) Any nonprofit organization can be considered eligible to reimburse the Iowa unemployment compensation fund in lieu of paying contributions. Any nonprofit organization wishing to be considered as a reimbursable employer shall file as provided under Iowa Code section 96.7 the election to reimburse the fund ~~on Form 68-0463, Election to Make Payments in Lieu of Contributions~~, with the department for its consideration.

ITEM 6. Amend subrule 23.70(2), introductory paragraph, as follows:

23.70(2) ~~Election to Make Payments in Lieu of Contributions, Form 68-0463, The election to reimburse~~ must be signed by an authorized official of the nonprofit organization and shall be accompanied by:

ITEM 7. Amend subrule 23.72(1), introductory paragraph, as follows:

23.72(1) Any governmental entity may elect to be a governmental contributory employer by filing a ~~written application known as “Election to Pay Contributions as a Government Contributory Employer,” Form 68-0053,~~ for elective coverage as a governmental contributory employer. The rules governing the selection of coverage status for governmental entities shall apply to Indian tribes. Any governmental entity failing to file such an election will be considered as a governmental reimbursable employer. The ~~Form 68-0053~~ application must be signed by a duly constituted governmental official. The election shall be approved if the department finds that:

ITEM 8. Rescind and reserve subparagraph **24.1(25)“b”(20)**.

ITEM 9. Rescind subrule 24.1(26) and adopt the following new subrule in lieu thereof:

24.1(26) *Claimant.*

a. An individual who has filed a request for determination of insured status or a new claim, or

b. An individual who has filed an initial claim unless the claim is found to be invalid or the benefit year has expired.

ITEM 10. Rescind and reserve subrule **24.1(121)**.

ITEM 11. Rescind and reserve subrule **24.1(127)**.

ITEM 12. Rescind rule 871—24.39(96) and adopt the following new rule in lieu thereof:

871—24.39(96) Department-approved training. The intent of department-approved training is to allow for claimants to return to the labor market after attending vocational training while being paid unemployment insurance benefits. Vocational training is nonacademic, skill-oriented training that provides the student with job tools and skills that can be used in the workplace. Vocational training includes technical, skill-based, or job readiness training intended for pursuing a career. Upon approval from the department, the claimant shall be exempt from the work search requirement for continued eligibility for benefits. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

24.39(1) The claimant must make application to the department setting out the following:

a. The educational establishment at which the claimant would receive training.

b. The estimated time required for such training.

c. The date the training will be complete or the degree will be obtained.

d. The occupation which the training is allowing the claimant to maintain or pursue.

e. The training plan, indicating the requirements which must be met in order to complete the certification or degree.

24.39(2) A claimant may receive unemployment insurance while attending a training course approved by the department, under the following conditions:

a. The educational establishment must be a college, university or technical training institution.

b. The training must be completed 104 weeks or less from the start date.

c. The individual must be enrolled and attending the training program as a full-time student.

While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-approved training, the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, be available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

24.39(3) The claimant must show satisfactory attendance and progress in the training course prior to being considered for a subsequent approval and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

ITEM 13. Amend subrule 24.40(3), introductory paragraph, as follows:

24.40(3) The course or courses must be full-time enrollment for a high-demand or high-technology occupation. The department will make available to serve as a guide a list of high-demand, high-technology, and declining occupations. The lists shall be available on the department's Web site and at workforce centers.

ITEM 14. Amend subrule 24.40(4) as follows:

24.40(4) ~~The individual must be enrolled in the training no later than the end of the benefit year which included the separation which made the individual eligible for training benefits or the week in which any federal benefit program based upon that benefit year is exhausted. Enrolled before the end of the benefit year means the individual has taken all steps available for entry into the training and has secured a reserved position in the training class. The individual has paid tuition or will pay tuition when the training starts. The training class may begin after the end of the benefit year. The application for training benefits must be received 30 days after the end of the benefit year or within 30 days after state or federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program in order to continue to be eligible for training extension benefits.~~

ITEM 15. Amend subrule 24.40(5) as follows:

24.40(5) Training benefits shall cease to be available if the training is completed; the individual quits the training course; the individual exhausts the training extension maximum benefit amount; or the individual fails to make satisfactory progress; and benefits shall cease no later than ~~one calendar year following~~ the end of the benefit year in which the individual became eligible for the benefits. Individuals must file and receive benefits under any federal or state unemployment insurance benefit program until the ~~claim has expired or has~~ benefits have been exhausted, in order to maintain eligibility for training extension benefits.

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